HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. NO. 1439/2005

CORAM : Hon'ble Shri S.R.Nayak, Chief Justice
& Hon'ble Shri Dilip Raosaheb Deshmukh, Judge

Appellants Claimants

-1. Abdul Hafeez, S/o Shri Abdul Zafar, aged about 40 years

-2. Ruksana Begum, D/o Shri Abdul Hafeez, aged about 17 years,

-3. Afsana Begum, D/o Shri Abdul Hafeez, aged about 14 years

-4. Rehana Begum, D/o Shri Abdul Hafeez, aged about 06 years

-5. Mohd. Anish, S/o Shri Abdul Hafeez, aged about 04 years.

Appellants No. 2 to 5 are Minor, through their natural guardian Father Shri Abdul Hafeez, aged about 40 years, Occupation Agriculture and Sewing.

All Castes Musalman, and Resident of Village Palma, Police Chouki Bhatgaon, Police Station Pratappur, Distt. Surguja (CG)

VERSUS

RESPONDENTS

01. Jitendra Kumar Agrawal Son of Shri Gajanand Agrawal, Vehicle Owner, Resident of Main Road, Surajpur, District-Sarguja (C.G.)
OWNER OF VEHICLE

02. Ramdeo Son of Shri Sampat Ram Dhobi, Occupation Driver, Resident of Village Singri, Police Station and Tahsil-Pratappur, District-Sarguja (C.G.).
DRIVER

03. The Oriental Insurance Company Limited, Through: The Branch Manager, O.I.C.L. Ambedkar Chowk, Ambikapur, District-Sarguja (C.G.)
INSURER

Shri Sushil Dubey, learned Counsel for the appellants.

Shri Ali Asgar, Counsel assisting Shri Prashant Jaiswal, Senior counsel for the respondent No.3.

ORAL ORDER
(Passed on 18th January, 2006)

The Following order of the Court was passed by S.R.NAYAK, C.J.

1. While seeking more compensation, learned counsel for the appellant would contend that the M.A.C.T. was not justified in taking monthly income of the deceased as Rs.3,000/- . Secondly, it was contended that having regard to the age of the deceased on the date of accident, the M.A.C.T. has applied wrong multiplier.

2. We do not find any merit in the first contention. Though it is the case of the claimants that the deceased was a tailor and earning Rs.150/- per day or Rs.4,500/- per month, to substantiate that claim, no acceptable legal evidence was laid before the MA.C.T. In the absence of any evidence, but, having regard to the vocation of the deceased, the MA.C.T., according to us, quite rightly took the income of the deceased as Rs. 3,000/- per month for assessing loss of dependency.

3. We, however, find force in the second contention. The Tribunal has opined that the age of the deceased on the date of accident was 35 years. In that view of the matter, it ought to have applied multiplier 17 instead of multiplier 15 for assessing loss of

dependency in terms of second schedule. If we apply multiplier 17, total loss of dependency would come to Rs.4,08,000/-.

4. In that view of the matter, we award sum of Rs.4,08,000/- towards loss of dependency. The impugned order shall stand modified in the above terms. In all other respects, the impugned order shall stand unaltered.

5. The appeal is allowed to the above extent. The party shall bear their respective costs.

Sd/-
CHIEF JUSTICE

Sd/-
DILIP RAOSAHEB DESHMUKH
Judge

Tumne